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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,585	02/05/2001	E. Stephen Crandall	105136.01	9273

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EXAMINER

BAUGH, APRIL L

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 12/31/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/775,585

Applicant(s)

CRANDALL, E. STEPHEN

Examiner

April L Baugh

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 11-13 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 14-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-10 and 14-23 in Paper No. 7 is acknowledged.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10 and 14-23 rejected under 35 U.S.C. 102(b) as being unpatentable by US Patent No. 5,701,582 to DeBey.

Regarding claim 1, DeBey teaches a method for receiving performance information over a network for generating a pseudo-live performance (column 1, lines 18-21), the method comprising: detecting a need for the performance information (column 7, lines 2-4); selecting a process for obtaining the needed performance information (column 5, lines 1-10); and executing the process (column 12, lines 13-54 and column 17, lines 6-38).

Regarding claim 14, DeBey teaches a pseudo-live performance generator (column 1, lines 18-21), comprising a controller that: detects a need for performance information (column 7, lines 2-4); selects a process for obtaining the needed performance information (column 5, lines 1-10); and executes the process (column 12, lines 13-54 and column 17, lines 6-38).

Regarding claim 2 and 15, DeBey teaches the method of claim 1 and 14, wherein the detecting a need for the performance information comprises one or more of: determining a time of a previous information reception event (column 12, lines 13-26); detecting a status of a storage device (column 3, lines 25-31); and accessing a profile (column 11, lines 24-28).

Regarding claim 3 and 16, DeBey teaches the method of claim 2 and 15, wherein the profile indicates one or more of: a type of information desired by an end-user (column 11, lines 24-28); a schedule of an end-user; and scheduled times at which information is transmitted by a performance transmitter (column 7, lines 48-55 and column 11, lines 54-57).

Regarding claim 4 and 17, DeBey teaches the method of claim 1 and 14, wherein the selecting a process comprises determining whether a performance transmitter can receive an information request (column 7, lines 1-10).

Regarding claim 5 and 18, DeBey teaches the method of claim 4 and 17, wherein the determining whether a performance transmitter can receive an information request comprises one or more of: transmitting a query signal to the performance transmitter; passively receiving a signal from the performance transmitter; and accessing a profile (column 4, line 66 through column 5, line 10).

Regarding claim 6 and 19, DeBey teaches the method of claim 4 and 17, further comprising: generating an information request; and transmitting the request to the performance transmitter via the network (column 4, line 66 through column 5, line 2).

Regarding claim 7 and 20, DeBey teaches the method of claim 1 and 14, wherein the selecting a process comprises determining an appropriate time to receive information from a performance transmitter (column 7, lines 48-55 and column 17, lines 11-13).

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Regarding claim 8 and 21, DeBey teaches the method of claim 1 and 14, further comprising generating the pseudo-live performance by mixing information corresponding to one or more portions of the needed performance information with other information (column 4, lines 24-29).

Regarding claim 9 and 22, DeBey teaches the method of claim 8 and 21, the generating the pseudo-live performance comprising: retrieving the other information; decoding one or more tasks instructed by the commands (column 5, lines 26-34).

Regarding claim 10 and 23, DeBey teaches the method of claim 9 and 22, wherein the one or more commands includes one or more of programming commands that execute a software program, housekeeping commands that load, delete, change, or overlay stored information (column 3, lines 25-31), and performance commands that reproduce stored information from one or more specified locations of a storage device (column 6, lines 41-50 and 62-65).

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patent is cited to further show the state of the art with respect to pseudo-live performances in general:

US Pat No. 6,151,078 to Yoneda et al.

US Pat No. 5,455,626 to Xu et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to April L Baugh whose telephone number is 703-305-5317. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal D Dharia can be reached on 703-305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

ALB

A handwritten signature in black ink, appearing to read 'Rupal D Dharia', with a long horizontal flourish extending to the right.

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER